



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

(A-201-844)

Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) determines that steel concrete reinforcing bar (rebar) from Mexico is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is July 1, 2012, through June 30, 2013. The estimated weighted-average dumping margins of sales at LTFV are listed in the “Final Determination” section of this notice. The Department also determines that critical circumstances exist with respect to imports of rebar from Mexico from mandatory respondents Deacero S.A.P.I. de C.V. and Deacero USA, Inc. (collectively, Deacero) and Grupo Acerero S.A. de C.V. (Acerero), the voluntary respondent, Grupo Simec (Simec)/Orge S.A. de C.V. (Orge) (collectively Simec), and Mexican firms that are subject to the all others rate.

DATES: Effective Date: (Insert date of publication in the *Federal Register*.)

FOR FURTHER INFORMATION CONTACT: Stephanie Moore (Deacero), or Joy Zhang (Simec), AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3692 or (202) 482-1168.

SUPPLEMENTARY INFORMATION:

Background

On April 24, 2014, the Department published the *Preliminary Determination* in the *Federal Register*.¹ In the *Preliminary Determination*, we postponed the final determination until no later than 135 days after the publication of the *Preliminary Determination* in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e) and invited parties to comment on our *Preliminary Determination*. On August 4, 2014, we received case briefs from Petitioner,² Deacero, Simec, and Acerero. On August 11, 2014, we received rebuttal briefs from Petitioner, Deacero, and Simec.

Period of Investigation

The period of investigation is July 1, 2012, through June 30, 2013.

Scope Comments

On June 19, 2014, Petitioner submitted a request that the Department amend the scope of this investigation to exclude certain types of deformed steel wire by inserting the sentence below immediately before the last sentence of the current scope language:

Also excluded from the scope is deformed steel wire meeting ASTM A1064/A1064M with no bar markings (*e.g.*, mill mark, size, or grade) and without being subject to an elongation test.

We solicited comments on the scope of the investigation from interested parties in the *Initiation Notice*³ and case briefs.⁴ Because no other interested party has submitted comments regarding the Petitioner's request to amend the scope language, and we see no reason to deny

¹ See *Steel Concrete Reinforcing Bar from Turkey: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, and Postponement of Final Determination*, 79 FR 22804 (April 24, 2014) (*Preliminary Determination*).

² Petitioner is the Rebar Trade Action Coalition and its members: Nucor Corporation, Gerdau Ameristeel U.S. Inc., Commercial Metals Company, Cascade Steel Rolling Mills, Inc., and Byer Steel Corporation.

³ See *Steel Concrete Reinforcing Bar from Mexico and Turkey: Initiation of Antidumping Duty Investigations*, 78 FR 60827 (October 2, 2013) (*Initiation Notice*).

⁴ See *Preliminary Determination*, 79 FR at 22803.

Petitioner's request, we incorporated this amendment into the "Scope of the Investigation" section below.

Scope of the Investigation

The merchandise subject to this investigation is steel concrete reinforcing bar imported in either straight length or coil form (rebar) regardless of metallurgy, length, diameter, or grade. The subject merchandise is classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) primarily under item numbers 7213.10.0000, 7214.20.0000, and 7228.30.8010.

The subject merchandise may also enter under other HTSUS numbers including 7215.90.1000, 7215.90.5000, 7221.00.0015, 7221.00.0030, 7221.00.0045, 7222.11.0001, 7222.11.0057, 7222.11.0059, 7222.30.0001, 7227.20.0080, 7227.90.6085, 7228.20.1000, and 7228.60.6000. Specifically excluded are plain rounds (*i.e.*, non-deformed or smooth rebar). Also excluded from the scope is deformed steel wire meeting ASTM A1064/A1064M with no bar markings (*e.g.*, mill mark, size or grade) and without being subject to an elongation test. HTSUS numbers are provided for convenience and customs purposes; however, the written description of the scope remains dispositive.

Verification

As provided in section 782(i) of the Act, we conducted sales and cost verifications of the questionnaire responses submitted by Deacero and Simec. We used standard verification

procedures, including examination of relevant accounting and production records, as well as original source documents provided by both companies.⁵

Analysis of the Comments Received

All issues raised in the case and rebuttal briefs for this investigation are addressed in the Issues and Decision Memorandum.⁶ A list of the issues which parties raised and to which we responded in the Issues and Decision Memorandum is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and it is available to all parties in the Central Records Unit (CRU), room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/index.html>. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of the comments received, pre-verification corrections, and our findings at verification, we made certain changes to the margin calculations for Deacero. For Simec, we determined to apply a margin based on total adverse facts available. Our

⁵ See Memorandum to Melissa G. Skinner, Director, Office III, Operations, "Verification of the Sales response of Grupo Simec and Constructed Export Sales of Simec USA in the Antidumping Duty Investigation of Steel Concrete Reinforcing Bar from Mexico," (July 1, 2014), *see also* Memorandum to Neal M. Halper, "Verification of the Cost Response of Grupo Simec in the Antidumping Duty Investigation of Steel Concrete Reinforcing Bar from Mexico," (July 11, 2014), *see also* Memorandum to Melissa G. Skinner, Director, Office III, Operations, "Verification of the Sales Response of Deacero in the 2012-2013 Antidumping Duty Investigation of Concrete Steel Reinforcing Bar (Rebar) from Mexico," (July 7, 2014), *see also* Memorandum to Neal M. Halper, "Verification of the Cost Response of Deacero S.A.P.I. de C.V. in the Antidumping Duty Investigation of Steel Concrete Reinforcing Bar from Mexico," (July 25, 2014).

⁶ See the memorandum from Deputy Assistant Secretary Christian Marsh to Assistant Secretary Paul Piquado entitled "Issues and Decision Memorandum for the Final Affirmative Determination in the Less than Fair Value Investigation of Steel Concrete Reinforcing Bar from Mexico," dated concurrently with this notice and hereby adopted by this notice (Issues and Decision Memorandum).

determination for Acerero, to apply a margin based on total adverse facts available, remains unchanged from the *Preliminary Determination*.

Final Affirmative Determination of Critical Circumstances

On December 17, 2013, Petitioner filed a timely critical circumstances allegation pursuant to section 733(e)(1) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of the merchandise under consideration.⁷ Based on our analysis, pursuant to 735(a)(3), we continue to find that critical circumstances exist with regard to imports of rebar from Deacero, Acerero, and the Mexican firms subject to the all others rate.

For further information concerning our analysis, *see* the “Critical Circumstances” section of the Issues and Decision Memorandum.

Final Determination

For the final determination, the following margins exist for the following entities for the POI:

Producer or Exporter	Estimated Weighted-Average Dumping Margin (percent)
Deacero S.A.P.I. de C.V.	20.58
Grupo Acerero S.A. de C.V.	66.70
Grupo Simec	66.70
All Others	20.58

⁷ See Petitioners’ submission, “Steel Concrete Reinforcing Bar from Mexico: Critical Circumstances Allegation,” dated December 17, 2013.

Section 735(c)(5)(A) of the Act provides that the estimated “all others” rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding all rates that are zero, *de minimis*, or determined entirely under section 776 of the Act. Therefore, for purposes of determining the “all others” rate and pursuant to section 735(c)(5)(A) of the Act, we are using the weighted-average dumping margin calculated for Deacero as the weighted-average dumping margin for all other producers and exporters of subject merchandise.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As noted above, the Department reached an affirmative critical circumstances determination at both the *Preliminary Determination* and final determination with respect to imports of the merchandise under consideration from Deacero, Acerero, and the Mexican firms subject to the all others rate. Therefore, in accordance with section 735(c)(4)(A) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of entries of rebar from Mexico from Deacero, Acerero, and the Mexican firms subject to the all others rate that were entered, or withdrawn from warehouse, for consumption on or after January 24, 2014, which is 90 days prior to publication of the *Preliminary Determination* in the *Federal Register*, and require a cash deposit for such entries as noted above. Because the Department reached a negative critical circumstances determination at the *Preliminary Determination*, and an affirmative critical circumstances determination at the final determination with respect to Simec, pursuant to section 735(c)(4)(B) of the Act, the Department will instruct CBP to suspend

liquidation of all entries of rebar from Mexico from Simec which were entered, or withdrawn from warehouse, for consumption on or after January 24, 2014, which is 90-days prior to the date of publication of the *Preliminary Determination* in the *Federal Register*, and require a cash deposit for such entries as noted above.

Pursuant to section 735(c)(1) of the Act and 19 CFR 351.210(d), the Department will instruct CBP to require cash deposits equal to the weighted-average dumping margins indicated in the table above.⁸ If the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise. The rate for all other producers or exporters will be 20.58 percent *ad valorem*. These suspension of liquidation and cash deposit instructions will remain in effect until further notice.

U.S. International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of rebar from Mexico no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the merchandise under investigation entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

⁸ See *Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations*, 76 FR 61042 (October 3, 2011).

Notification Regarding Administrative Protective Orders (APO)

This notice also serves as a reminder to the parties subject to the APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Date: September 8, 2014

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Appendix

List of Issues Discussed in the Final Issues and Decision Memorandum

- I. Summary
- II. List of Comments
- III. Background
- IV. Application of Adverse Facts Available With Regard To Acerero and Simec
- V. Critical Circumstances
- VI. Scope Comments
- VII. Scope of the Investigation
- VIII. All Others Rate
- IX. Discussion of the Issues

General Issues

Comment 1: Scope of the Subject Merchandise

Comment 2: Whether Cooling Method Should Be Incorporated into CONNUMs

Issues regarding Deacero

Comment 3: Whether Certain Home Market Sales Are Outside the Ordinary Course of Trade

Comment 4: Application of Adverse Facts Available for Deacero's Unreported U.S. Sales

Comment 5: Critical Circumstances Finding

Issues regarding Simec

Comment 6: Application of Total Adverse Facts Available to Simec

Comment 7: Whether Constructed Value Can Be Used as the Basis for Normal Value

Comment 8: Whether the Department Can Calculate Indirect Selling Expenses from the Information on the Record

Comment 9: Whether Simec's Sales to Affiliated Distributors Were Made at Arm's Length

Issues regarding Acerero

Comment 10: Whether the Application of Total AFA With Regard to Acerero is Warranted

Comment 11: Whether the AFA Rate Applied to Acerero is Punitive and Excessive

- X. Recommendation

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